

REMARKS

In the Office Action mailed July 2, 2003, claims 15, 17-19, and 21-25 were rejected under 35 U.S.C. 112, first paragraph. The Examiner has taken the position that the specification does not provide enablement for the melting of the flow control agent. Applicants have now amended independent claim 15 to recite that the sealant is heated such that the sealant flows into and bridges the gap or cavity. See the specification at page 3, lines 19-24. Claim 15, as amended, and claims 17-19 and 21-24, which depend therefrom, are now believed to be in compliance with §112.

Claims 15, 18-19, and 23-25 stand rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al. With regard to claim 15, applicants have amended the claim to clarify the relationship of the expandable sealant and flow control agent, i.e., the flow control agent is on the *surface* of the sealant. See the specification at page 5, lines 3-10. Johnson et al. teach that, in the embodiment where two or more melt-flowable layers are used, the layer with greater flow properties is on the **top**. See col. 17, lines 53-57. This is in contrast to the teaching of the present invention, in which the layer with the greater flow properties (sealant) is on the **bottom**. Further, claim 15 recites a "heat activated **expandable**" sealant. Johnson et al. do not teach a sealant or a heat activated expandable sealant. And, in the embodiment where Johnson mentions the presence of a blowing agent, the agent is in the top (not the bottom) layer. See col. 15, lines 55-56. Claims 15, 18-19, and 23-24, as amended, are clearly patentable over Johnson et al.

Claim 17 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. in view of Stokes. The Examiner maintains that it would have been obvious to use the nonwoven web of Stokes in the melt-flowable layers of Johnson et al., referring to col. 15, lines 65-67. However, as previously pointed out, there is no teaching or suggestion in Stokes that his nonwoven web may be used as a flow control agent. Even if one were to make the proposed substitution, the claimed invention would not result as Johnson et al. teach the desirability of including a nonwoven web

between two melt-flowable sheet materials. See col. 20, lines 24-26 and Example 19. There is no teaching or suggestion in Johnson et al. of a melt-flowable sheet comprising an expandable sealant as a bottom layer and a non-woven web as the top layer. Claim 17 and new claim 29 are clearly patentable over the combination of Johnson et al. and Stokes.

Claim 22 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. in view of Greenwood US 4,320,076 (newly cited). Greenwood teaches expandable sealant compositions comprising butyl rubber and microspheres including a blowing agent. The Examiner asserts that it would have been obvious to add a blowing agent to the sealant of Johnson et al. in view of Greenwood. Again, there is no motivation to make the proposed substitution. While Johnson et al. teach that a blowing agent may be included in the second layer of the melt-flowable tape (col. 15, lines 55-58), as pointed out above, the second layer of Johnson et al. has greater melt flow properties and is positioned on top, while the sealant of the present invention (which includes a blowing agent) is on the bottom. Further, there is no teaching or suggestion in Johnson et al. of including a blowing agent for the purpose of allowing a sealant to expand and fill gaps or cavities as taught in the present invention. Rather, Johnson et al. teach that the use of blowing agents or foaming agents are included to "impart a convex shape to a surface."

Accordingly, there is no motivation to make the proposed substitution. Even if one were to make the proposed substitution, the claims would not be met as Johnson et al. do not teach or suggest the claimed combination of a heat activated sealant and flow control agent where the flow control agent is on the surface of the expandable sealant as recited in claim 15, from which claim 22 depends, and as recited in new claim 26.

In addition to the above amendments, applicants have added new claims 27-29, which recite that the combination heat activated sealant and flow control agent overlies a gap or cavity in a substrate, where the sealant and flow control agent comprise a

thermoformed part, specifically a pocket sealer. Basis for these claims may be found in the specification at page 5, lines 9-25. None of the cited references teach or suggests the claimed combination in the form of a thermoformed part overlying a gap or cavity in a substrate.

Applicants have also added new claim 30, which recites that the flow control agent comprises polyvinyl acetate. While the Examiner has previously cited Stokes for teaching a nonwoven fabric which may comprise a polyolefin such as polyvinyl acetate, as pointed out above, Johnson et al. do not teach or suggest the use of a non-woven web as the top layer (flow control agent) in a sealant/flow control combination. Accordingly, new claim 30 is patentable over the cited references.

Claim 31 has also been added, which recites that the expandable sealant is in the form of a thermoformed part. See the specification at page 3, lines 5-6. None of the cited references teaches or suggests an expandable sealant comprising a thermoformed (shaped) part with a flow control agent on its surface as claimed. Claim 31 is patentable over the cited references.

Finally, submitted with this amendment is a Supplemental Information Disclosure Statement citing U.S. Patent No. 6,485,589 to Johnson et al. Applicants submit that the claims as amended are patentable over this reference for the same reasons discussed above with regard to Johnson et al. '701.


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For all of the above reasons, applicants submit that claims 15, 17-19 and 21-25, as amended, and new claims 26-31 are patentable over the cited references. Early notification of allowable subject matter is respectfully requested.

Respectfully submitted,

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